

Disciplinary Policy – User Guide

This guidance supports the policy that applies to everyone who works in the CS CSU or client organisation. For a Doctor or Dentist also refer to the Department of Health 'Maintaining High Professional Standards in the Modern NHS' document.

Disciplinary is for misconduct issues.

- If issues relate to sickness absence, follow the sickness absence policy.
- If issues relate to unsatisfactory performance follow the capability policy:

We hope this guidance answers most general questions that you might have.

For advice about a specific case, please contact ConSultHR:

- Telephone 01793889417
- email consulthr.cscsu@nhs.net

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Section One: Staff Guide

Introduction

We want you to carry out your job to the best of your ability at all times and we expect high standards of behaviour at the organisation. If there may be a problem with your behaviour that you need to resolve, we will guide and support you to do so. If the problem is not resolved, or if the nature of the problem is more serious, we may have to use our formal disciplinary procedure.

Unless stated otherwise, all time limits refer to consecutive calendar days and not working days.

Why do we have a Disciplinary Policy and Procedures?

The Disciplinary policy helps you understand what standard of conduct and behaviour we expect from you, during your career. The rules within our policy ensure that we are:

- Fair and consistent
- Thorough in our investigations
- Open in our dealings with you
- Compliant with all legal requirements.

What are the Core Principles of our Disciplinary Procedure?

Our Disciplinary procedure has sound principles detailed in the disciplinary policy.

We will always treat you fairly and with dignity, if you are subject to disciplinary policy and procedure. In summary, we will always try to deal with any conduct issue informally through one-to-one discussions and counselling. When the informal approach fails to resolve the problem, or the misconduct issue is serious, then the formal disciplinary process is used. We will investigate the full facts before taking any action and you have the right to be accompanied at all formal stages (by a trade union representative or a workplace colleague). We will be open in our dealings with you and keep the matter confidential to the people who need to know. You also have the right to appeal against any sanction subsequently applied.

Use of the Disciplinary Policy

We address minor issues informally, but if this becomes habitual behaviour, it may lead to formal action. Issues of a more serious nature, such as a failure to respond to previous written warnings or a single serious act of misconduct means we may go straight to formal disciplinary proceedings. Gross misconduct, such as theft or fraud, may lead to dismissal.

Please refer to the Disciplinary Policy for examples. You will notice that the general theme of these types of offences is that the misconduct is such that it fundamentally breaches the mutual relationship of trust and confidence, which we expect to have with our staff.

The Informal Procedure

How we handle misconduct informally

If you commit a minor act of misconduct, your manager will speak to you informally to ensure that you are aware of the issue and discuss how you can restore proper standards of conduct. Your manager will make it clear that a repetition of the misconduct will lead to formal action. Such discussions do not themselves constitute disciplinary warnings. However, your manager will make a file note of your discussion for reference if you repeat the misconduct.

The Formal Procedure

How we start the formal procedure

If informal discussions have not led to the required improvement in conduct, or we consider the misconduct more serious the formal procedures will begin.

Where an alleged incident of misconduct has happened, your line manager or other authorised manager (sometimes referred to in the policy as the disciplining manager) will appoint an Investigatory Officer to investigate the incident further. The Investigating Officer is impartial and conducts an investigation to establish the full facts and determine if there is a case to answer needing a Disciplinary Hearing.

What happens during the investigation?

The Investigating Officer will contact you to arrange an investigatory interview.

This interview is necessary to enable the Investigating Officer to establish the facts of the case and understand if there is a case to answer. During the interview, they will ask you about the alleged incident or misconduct and your views, explanations and your perception.

They may also interview witnesses to the alleged incident, as part of their fact-finding investigation. Witnesses sign their statements and you are entitled to have a copy of all evidence gathered if the matter goes to a disciplinary hearing.

The Investigating Officer prepares a Management Statement of Case and based on the evidence gathered, makes a decision as to whether there is a case to answer. If there is no case to answer, the matter is closed. If there is a case to answer, the Disciplining Manager will invite you to a formal disciplinary hearing.

When is suspension from work necessary?

Sometimes, in order to carry out an investigation fairly and properly, it may be necessary to suspend you from work. This may happen for allegations of gross misconduct, where your continued presence at work could prevent a thorough investigation or where it is necessary for the protection of yourself, other people or public funds.

This time away from work will be on full pay and will be for as short a period as possible. Suspension does not imply guilt and is not a punishment. However, you must not enter work premises or contact your colleagues unless specifically invited to do so. You are entitled to meet with your Trade Union representative or workplace colleague during suspension but this should not be on work premises.

Suspension is not a decision we take lightly and if we suspend you, we will tell you why and confirm the reason in writing within 7 days.

While you are suspended, you are still required to attend investigatory or disciplinary hearings or provide further information.

If issues relate to clinical practice then we follow guidance issued by professional bodies. Referrals to professional bodies are at Director/ Executive level.

Does the same person who handles the investigation take disciplinary action?

No. A manager who is impartial and not involved in deciding the outcome of the hearing will carry out the investigation.

How is the formal Disciplinary Hearing arranged?

The Disciplining Manager will write to you to advise the date, time and location of the Disciplinary Hearing. The letter will also include the Management Statement of Case, which provides a background of the alleged incident, details of the investigation and the reason for the decision to hold a disciplinary hearing.

You are invited to submit details of any written evidence you wish to present and witnesses you may wish to call in advance of the Hearing.

Can I be accompanied to the Disciplinary Hearing?

You have the right to be represented at the Disciplinary Hearing by your Trade Union representative or a workplace colleague.

How should I prepare for the Disciplinary Hearing?

You will need to set aside some time to prepare for your Disciplinary Hearing. Make sure you have copies of all papers that will be discussed at the meeting. Wherever possible, all evidence related to your case will be made available to you 7 days before the hearing.

You may wish to prepare a written statement or some notes so that you can put forward your version of events clearly. You can then read from this, or refer to it during the meeting. Your trade union representative may help you prepare this.

If you have documents or witness, statements that you wish to present during the hearing you must make sure they get to the Disciplining Manager at least 2 days before the hearing date.

What will happen at the formal Disciplinary Hearing?

The purpose of the Hearing is to hear evidence from all parties so that the Disciplinary Panel is able to reach a decision about what disciplinary sanction (if any) should be applied. The panel is the Disciplining Manager who chairs the meeting and makes final decisions plus another manager, a ConSultHR representative and a note taker.

The procedure needs to be fair and consistent so it will follow a set pattern:

- The **investigating officer** will first present the findings of the investigation and call witnesses as appropriate.
- You and your representative will have the right to question all witnesses and the investigating officer.
- **The disciplining manager** and other panel members have the right to question the investigating officer and witnesses.
- The **investigating officer** may re-examine any witnesses.
- You and your representative will then respond on your case and you may call witnesses.
- The **investigating officer** will have the right to question you and witnesses.
- The **disciplining manager** and other panel members will have the right to question you and witnesses.
- You or your representative may re-examine any witnesses.
- The **disciplining manager** and other panel members may also, at any time, question a party, or adjourn the hearing to allow further evidence or witnesses to be called.
- The **investigating officer** will sum up their case first followed by you or your representative without introducing any new evidence.

An adjournment of reasonable length will take place at this point to allow the panel to consider the discussions and review the evidence before the disciplining manager reaches a decision. The meeting may be adjourned to a later date if you and the disciplining manager agree that further investigation is required before a decision can be made.

When the meeting reconvenes:

- The disciplining manager will recap, tell you their decision and their reasons for it.
- If appropriate, a formal warning or other sanction is issued;
- If this happens, you will be reminded of your right of appeal - (see When and how can I appeal against a disciplinary sanction?).
- If issues relate to clinical practice then it may be appropriate to refer you to the relevant professional body. Referrals to professional bodies are made at senior executive level.

After the meeting:

- The manager will confirm the decision to you in writing within **7** days
- Originals of all information are kept on your file according to the Data Protection Act.

What sanctions might there be?

- You may have a formal warning in cases involving offences of minor misconduct or where counselling has failed to improve the behaviour. This formal warning will usually stay on “live” for **12 months**. Any repetition of this type of misconduct within this 12-month period will usually result in further disciplinary proceedings.
- You may have a final warning if you have a current warning or where serious misconduct is proven. A final warning usually remains “live” for **2 years**. Any repetition of this type of misconduct within this 2-year period will usually result in further disciplinary proceedings that can result in your dismissal.
- We will dismiss you for gross misconduct and usually dismiss you if you have a current final warning. If the dismissal is for gross misconduct, we will summarily dismiss you and this means you do not have notice or pay in lieu of notice.

You will have notification in writing within **7** days of the hearing.

The Appeal Process

When and how can I appeal against disciplinary action?

Please refer to the guidance that supports the Appeals Policy.

Section Two: Manager Guide

Introduction

To help maintain the high standards of behaviour that we expect it is essential that you let your staff know the standard of conduct you expect. We expect you to help your team members understand what acceptable standards of conduct and behaviour are and to address any potential misconduct issues promptly.

This guide will help to ensure consistency in our approach to maintaining high standards of behaviour so that we treat all staff fairly and with dignity if they are subject to our disciplinary procedure. In addition to this guide, the **ConSultHR** team will provide support and guidance.

Failure to follow the following procedure significantly increases the risk that a subsequent Employment Tribunal finds a dismissal unfair. This could result in significant costs, as well as damage to our reputation as an organisation and as an employer.

Unless stated otherwise, all time limits refer to consecutive calendar days and not working days.

When to use the disciplinary procedure

The disciplinary procedure is for dealing with misconduct issues, where an individual's behaviour falls below our expected standards. It applies to everyone who works within the organisation irrespective of length of service or position.

If the issue relates to absence, you use the **Managing Sickness Absence** policy unless you believe that the absence is not due to genuine sickness (i.e. you believe the staff member has deliberately misled you).

If the issues relate to unsatisfactory performance, you should use the **Capability** procedure. Please note that referral to the relevant professional body could be required if the capability procedure is used. .

It may be difficult to tell whether an issue relates to misconduct or capability, and you may need to explore this as part of your investigations. If the staff member fails to meet performance standards due to deliberate carelessness, negligence or idleness, or they deliberately breach a policy, or they are persistently late, this is a misconduct issue. If they **can't** carry out their role acceptably, this is a capability issue (can't as opposed to won't is a good way to think of it).

Before using the formal disciplinary procedure, **always** consider if it might be possible to resolve the issue informally. Where possible, you should attempt to resolve minor problems by taking prompt informal action, and therefore avoid the need to use the formal disciplinary procedure.

You should also consider:

- Are you sure that the staff member is aware of the relevant standards of conduct/ the particular rule which they have broken?
- Could there be a misunderstanding as to what is acceptable behaviour?
- Are there any personal circumstances, which you should be taking into account?

Where informal action does not resolve the issue, where the misconduct is sufficiently serious, or where the member of staff is already on a formal warning for a related matter the formal disciplinary process will apply. This will always be the case for any act of gross misconduct.

Essentially the aim of the process is to ensure that the staff member's behaviour improves, rather than to 'punish' them. To maintain the dignity of the staff member during any stage of the disciplinary process, you must maintain confidentiality at all times.

Taking Informal Action

What is informal action?

The informal approach to discipline is a one-to-one confidential conversation between the individual and you as their line manager, which allows you to highlight any unacceptable behaviour or conduct. It encourages an open discussion on how you can work together to help the staff member reach an acceptable standard quickly. As the manager, you may provide advice, counselling, coaching or training to support the staff member to understand and improve expected behaviours through an agreed action plan. You should also ensure that the staff member understands the consequences of future similar incidents.

In many cases, a prompt and informal discussion with the staff member, about their conduct, is the most effective way to manage the situation. By acting promptly and fairly, the issue can be 'nipped in the bud' to prevent it developing into a more serious problem, which can be time consuming and may impact on the effectiveness of the team. Informal action also promotes strong healthy working relationships and fits with our view of discipline being about 'improvement' not 'punishment'.

Examples of misconduct, which may warrant informal action, include:

- Unreliable behaviour such as persistent lateness
- Unauthorised absence
- Inappropriate or offensive behaviour

You must tackle this type of misconduct informally the first time it occurs. Repeat offences of this nature will require formal disciplinary action.

Sample Case Study

Mike is a member of your team and you have noticed that he arrives about ten minutes later than his expected start of the working day most mornings. Although he works later in the day to make up his time and his work is generally up to the required standard, you are concerned that this behaviour may have an impact on the rest of the team. You carry out team briefings in the morning and have had to delay the start of this briefing a few times to wait for Mike.

You decide to arrange a meeting with Mike to discuss his behaviour with him. Before you arrange the meeting, you know that you need to gather more facts to present to Mike. The next morning you note the exact time that Mike arrives in the morning and the exact times that the team briefing starts. You have already noted other dates where this has happened.

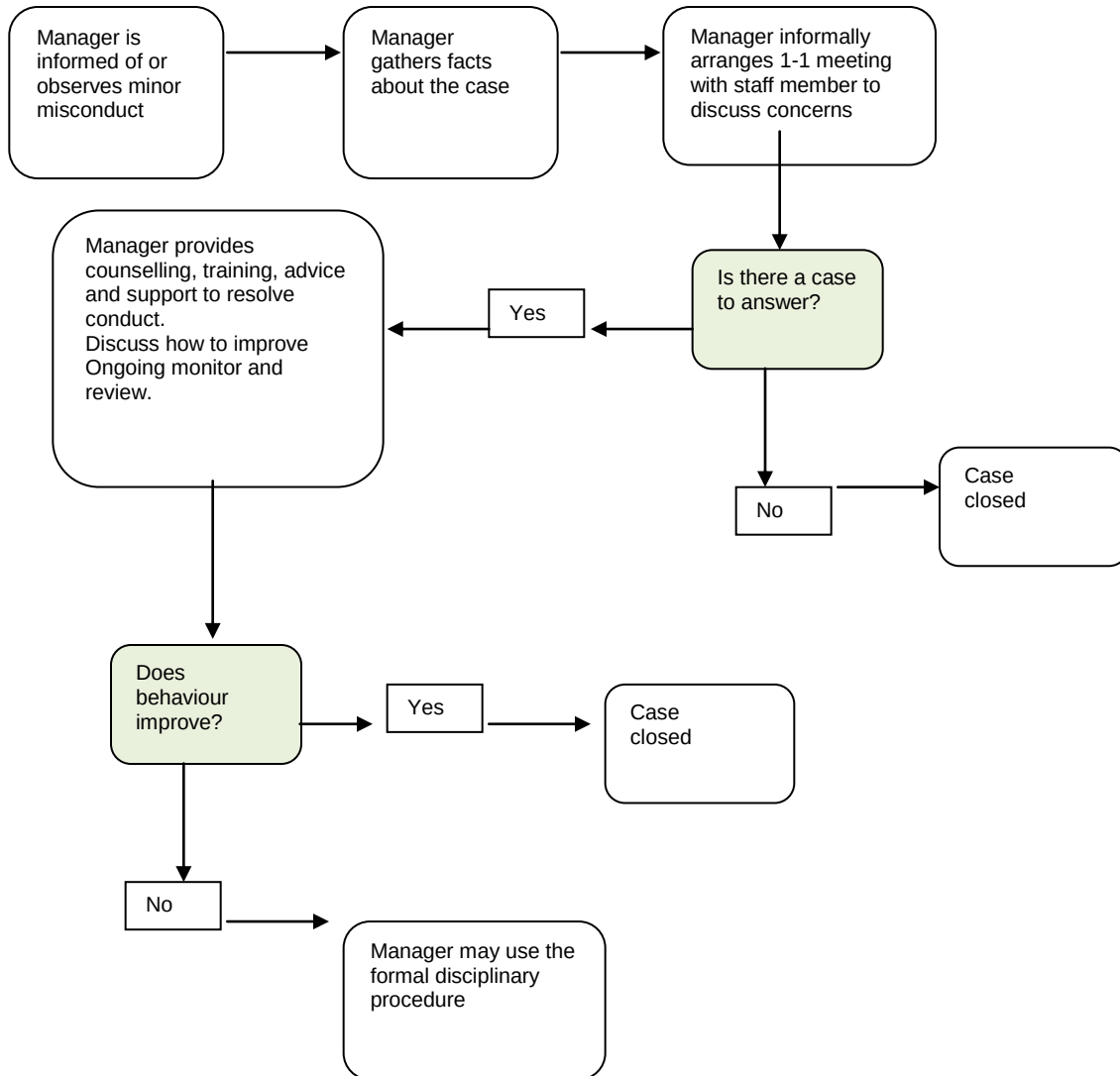
You privately ask Mike to meet with you the following day to discuss his timekeeping. You let him know that you have concerns and wish to discuss them with him. Mike asks if he can bring a companion to the meeting and you let him know that he has no right to a companion at an informal meeting.

At the meeting, Mike denies that he has been late on any occasion and says that he always gets to work on time and there is never any problem with his work. You present the facts to him and let him know the exact dates that you have monitored his arrival and the time that he has arrived. You also let him know the exact times that the team briefing started and the exact length of the delay. Mike then points out that he hadn't thought he was late and you are only talking about ten minutes, which is minimal. He doesn't know what all of this fuss is about as he always does his work to a high standard. You let him know that his work is of a high standard but his behaviour at work is also expected to be of a high standard and that he cannot continually come in late with no explanation or prior agreement. You ask him what impact it has on his colleagues when their team briefing is delayed and Mike again states that he doesn't think they will mind as it's only a minimal delay.

You remind Mike that he is contracted to start at a specific time every morning and ask him to explain his lateness. Mike admits (faced with the facts) that he may have been late but has no explanation for this. You outline the importance of coming to work on time and inform Mike that he must improve his timekeeping. You let Mike know that you will monitor and review the situation and let him know that if he does not meet these standards it may result in more formal action. After the meeting you make a brief record of your discussion and agreed actions (for your own files) to help you manage the situation and should the need arise for any further action. You give a copy of this record to Mike.

Quick Reference Guide to the Informal Disciplinary Procedure

Use this flow chart in conjunction with the guidance notes, which follow and contact CONSULTHR for specific advice



How to take informal action

Step One - Before the Meeting

We all know that setting clear standards is the foundation to good performance management. When we have concerns about a staff member's behaviour falling below acceptable standards, we need to present clear facts to the staff member to help them understand when this is happening.

At this stage, it is not necessary to conduct an investigation, although it is useful and good practice to provide specific examples of behaviour when you meet.

If the behaviour is something that several members of staff are displaying, e.g. lateness, rudeness or taking too long on breaks, you might want to address the whole team, by way of a team meeting and follow this up with a memo to staff. You can then be sure that all of the team are aware of what is expected and that you are not unfairly picking on just one staff member, who you may have noticed breaching the rules.

If you need to have a meeting with one staff member hold it as soon as possible, keep it informal and a one-to-one basis.

Step Two - During the Informal Meeting

The purpose of the informal meeting is to:

- Advise the staff member of your concern about their behaviour
- Understand any reasons why the misconduct has occurred
- Agree an appropriate way forward

It is useful to take notes during the meeting and note the outcome of the meeting in an agreed plan. If you decide that the issues are more serious than you originally thought, you may decide to adjourn the informal meeting and use the formal disciplinary procedure

Format of the Meeting

Welcome

- Explain the purpose of the meeting
- Explain how you intend to conduct the meeting



Explain

- Present facts about observed behaviours or complaints received
- Explain why behaviour is unacceptable and the impact of behaviour on others



Explore

Ask questions to understand:

- Why the staff member behaved in such a way
- The staff member's perspective of what happened to gain a fuller understanding of the situation
- The staff member's understanding of misconduct, standards of behaviour
- What needs to be put in place to help



Confirm

- The required standard and timescales for improvement
- The staff member's understanding of what needs to happen
- The possible consequences of any repetition of behaviour (i.e. formal disciplinary action and the penalties attached to that)



Agree Follow Up

- Agree any actions on both your part and the staff member (write down in action plan)
- Agree review date
- Review performance when you say you will

Step 3 – After the Informal Meeting

Keep a summary of the meeting including the date and time, together with any important information that you have obtained, and any agreed actions, as this will help you monitor and review the behaviour and may be relevant if formal action is taken at a later stage. Keep notes securely and confidentially to comply with the Data Protection policy. Give a copy of your notes to agree actions/record the meeting to the member of staff.

You may agree a review/monitoring period for the behaviour to improve to an acceptable level e.g. if the staff member is regularly late. By the end of the period, you will need to decide if there has been an acceptable improvement. If not, you may decide to use the formal disciplinary procedure.

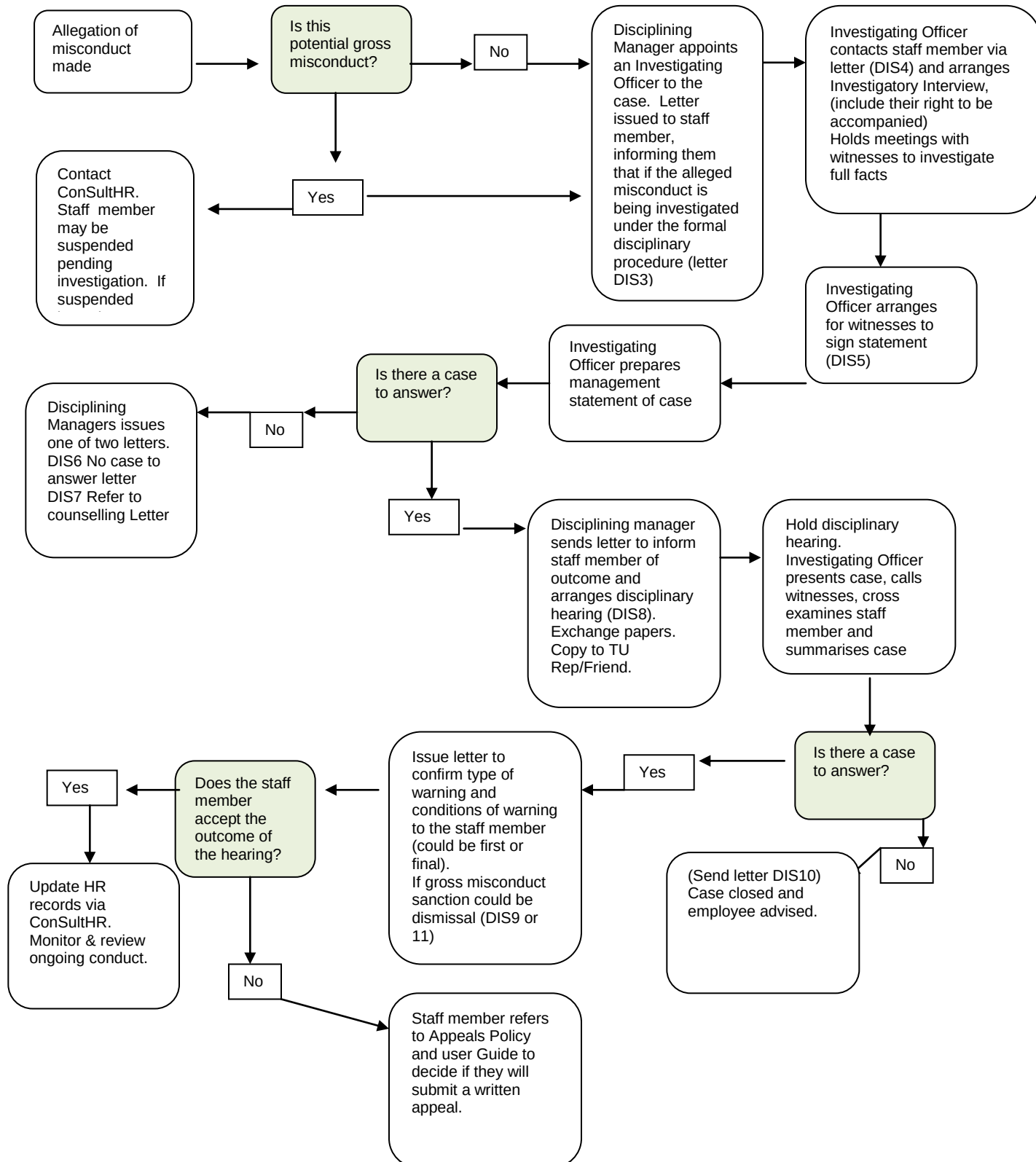
The Formal Disciplinary Procedure

We will always try to deal with any alleged conduct issue informally through one-to-one conversations, but if this does not resolve the issue or if the nature of the alleged misconduct is of a more serious nature, it will be necessary to begin the formal disciplinary process.

If issues relate to clinical practice then guidance issued by professional bodies is followed. If issues relate to the safeguarding of children or vulnerable adults then referral to the Independent Safeguarding Authority could be required. Referrals to professional bodies and/or the Independent Safeguarding Authority is be made at senior executive level and it is your duty to escalate any cases that you believe could require a referral. If you are unsure whether a referral is required then you should escalate the case in order to a more senior person to make the decision.

Quick Reference Guide to the Formal Disciplinary Procedure

Use this flow chart should be used in conjunction with the guidance notes, and refer to ConSultHR for specific advice



Investigation

We only take disciplinary action against alleged misconduct when we are sure that there is a case to answer. This means our first step to start the process is to gather all of the facts, in an appropriate way.

Before you go any further, stop to consider if the issue is, or has the potential to be a case regarding Child or Adult Safeguarding, financial irregularities or fraud. If so, there are strict protocols to follow especially as other organisations such as the local authority and/or police may need to be involved.

Professionals, drawn from outside the employing organisation, will probably handle investigations into this type of allegation and we need to ensure that no action or omission by our staff jeopardises an effective investigation.

Suspected Financial Irregularity or Fraud: Contact the most senior financial officer in the organisation and/or the local Counter Fraud specialist if you become aware of any incident that could be a financial irregularity or fraud. These people will inform the organisation if/when internal action is appropriate.

Suspected Child or Adult Safeguarding issue: Contact the designated safeguarding lead and the Director of HR if you become aware of any incident that could be a Child or Adult Safeguarding issue. These people will liaise with the Local Authority Designated Officer who will lead any cross agency investigations. No action to suspend the staff member or discuss the situation with them can proceed without the express authorisation of the HR Director.

If, once investigations are complete there is cause for concern over the conduct of a staff member and the investigation details are released to a disciplining manager who will follow this process from the step called “Arranging the disciplinary meeting”.

For all other issues follow the process detailed below:

There are two main situations needing an investigation:

1. Repeated or continuous actions – in themselves a situation may not be too serious but, because of continuous or repeated nature, it has a serious effect on the staff member's overall performance. There may already be records of previous discussions, attendance records etc.

2. Serious incidents – this can be a single serious incident. That may or may not have the potential to be gross misconduct.

Step 1 - Getting Started

Appointing the Investigating Officer

1. Employment law stresses that a **disciplinary decision must be made on a reasonable investigation of the facts**. The provision recognises that the **investigation process** should be separated from the **decision making process**.

To ensure that the staff member has fair treatment an **Investigating Officer** is appointed by the **Disciplining Manager** to arrange an investigation to establish:

- Is there a case to answer?
- Will counselling (the informal approach) be a more appropriate outcome?
- Is a disciplinary hearing necessary?
- When appointing an Investigating Officer, it is important that the Disciplining Manager is assured that this person has sufficient time and resource to conduct the investigation in a timely manner.

If a Trade Union steward is being investigated, the full time officer must be contacted at the outset of the investigation.

Step 2 – Gather the Facts

The nature of the investigation will vary according to the circumstances of each case. It is important that facts are gathered as quickly as possible, whilst they are still fresh in everyone's mind. The investigating officer's role is to establish the facts and not to build a case against the staff member. It is also important to gather relevant background information e.g. working relationships between staff, custom and practice.

In some circumstances, it may be necessary to suspend the member of staff to enable the investigation to be carried out thoroughly and fairly. If this is required the Disciplining Manager (or a delegated manager) will inform the staff member of the reason why and confirm this to them in writing (**DIS2**) within seven days of their suspension.

The Disciplining Manager will write to the staff member to confirm the name of the Investigating Officer (**DIS3**). The Investigating Officer will contact the staff member in writing (**DIS4**) to invite them to an initial interview to investigate the allegation. There is no legal right to be accompanied in an investigation meeting.

The key factors in conducting an effective investigation are to be thorough, discreet, fair and reasonable, and considerate of the staff member.

Conducting Fact-Finding interviews with witnesses

The Investigating Officer will question others who were present or who have knowledge of the circumstances surrounding the incident. The Investigating Officer will also meet with any witnesses with a view to gathering full facts about the alleged misconduct.

The Investigating Officer will take notes during all meetings and arrange for these to be checked for accuracy and signed by the witnesses **(DIS5)**.

At the interviews, the Investigating Officer will cover the following with any witnesses;

- What is the purpose of the interview
- That their full cooperation is expected
- In the interests of a fair procedure their statement will be shown to those involved in the disciplinary process, including the member of staff under investigation
- The notes from the meeting are signed by the witness and the investigating manager
- When their statement or interview notes will be ready for them to check and sign
- That if their statement is used at the Hearing, they will be requested to be available to answer questions in person, at the Hearing.

Some witnesses may feel nervous or anxious, particularly at the thought of appearing at a Hearing. They may fear repercussions or be genuinely concerned for their own safety and well-being. It is not usually possible for witnesses and statements to remain anonymous, but the Investigating Officer may need to consider what steps they can take to ensure that the witnesses' fears are not realised. For further advice the investigating officer can contact ConSultHR.

Below are some practical guidelines on conducting the fact finding interview:

- State the purpose of the meeting, date, time and those present.
- Make a written record of statements on a question and answer basis.
- Attempt to take verbatim notes and stick to the facts.
- Ask open questions such as those indicated below – What, When, Where, How and Who to gain maximum information

Possible questions for staff member making allegation/complaint and witnesses.

- We understand that you may have witnessed an incident at xxx about xx time ago, where something happened/was said about xxx
- Please explain exactly what happened?
- When and where did the incident take place?
- Who was involved and who else witnessed this?
- What was your reaction, what did you say?
- What action did you take?
- Did you speak to anyone else about this incident?
- Has anything like this ever happened before?

Investigatory Meeting with the Staff Member

At the Investigatory meeting, the Investigating Officer will

- Arrange for the staff member to meet them for an investigatory meeting
- Stress this is not a disciplinary hearing but a meeting to establish the facts to decide if there needs to be formal disciplinary hearing.
- Take full notes of the discussion. The employing organisation is responsible for arranging a note taker to be present. These notes must go to the staff member as soon as possible after the meeting for checking and signature.
- Go through the evidence they have collected and ask the staff member for their comments.
- Ask as many questions as they need to establish the facts, (remember this meeting is to enable them to decide if disciplinary action is needed).
- If new information comes to light, tell the staff member that further investigation will take place before they decide how to proceed.
- Tell the staff member when they are likely to have made a decision on whether to proceed.

Possible questions for staff member subject to investigation

- Can you recall an incident which took place about xx weeks ago
- Have you ever (describe the alleged event and use the exact detail including the language used)
- X has stated that you ... (describe specific event) – What is your response to this?
- Y has stated that he saw/heard you(describe specific event) – Do you recall this?
- Have you ever said anything to Z ... (refer to the information previously received)
- Why would X say that you did this?
- Can you think why your actions may have been interpreted in this way/seen as inappropriate?
- Consider if the staff member has any health issues which might have contributed to the misconduct. It might be necessary to seek advice/opinion from Occupational Health to understand whether health can be used in mitigation.

Step 3 – Make Decision Based on Findings of Investigation

Having conducted the appropriate investigatory interviews and gathered relevant paperwork, the Investigating Officer will decide whether the case will go to a hearing.

Base decisions on answers to the following:

1. Is there a case to answer (has the allegation been substantiated?). They may find that some key facts are still being disputed by different parties, so that it is one person's word against another's. In this situation, the decision will need to be based on what they believe, taking all of the evidence into account, working on the balance of probability.
2. What is the staff member's employment record like to date?
3. What guidance does the disciplinary procedure offer?
4. Has the Investigating Officer ascertained all of the facts from which they may reach a reasonable decision?
5. What are the risks if the case does not go to a hearing?
6. What is the decision? Should the case go to a hearing?
7. Why have they arrived at that decision?

Step 4 - Write a Management Statement of Case (Investigation Report)

The **Investigating Officer** will now complete a Management Statement of Case (see the Investigation Report template in appendix 3) to provide a factual summary of the investigation findings and recommend the next course of action to the Disciplining Manager. i.e.

- No case to answer
- That counselling is an appropriate outcome
- That a disciplinary hearing is necessary

The outline of Management Statement of Case (Investigation Report) is as follows:

Section – Background on Staff Member

Fill in the applicable boxes with the staff member's name etc.

In the section on background, give a brief paragraph(s) covering:

-
- Staff member's base/location/ward
- Brief description of work and work area
- Numbers on duty (if appropriate)
- Append job description (if relevant)
- Refer to training received (if relevant)
- Refer to counselling/previous written warning(s) given, (if relevant)
- Employment record to date

Section – Investigation

Fill in the applicable boxes giving details of who was involved in the investigation and attach the statements and evidence gathered.

Section – Allegations and Evidence

Set out the allegations made against the staff member and provide a summary of the evidence for and against each allegation.

Section – Report Summary Conclusions

In this section, provide a summary of whether the evidence gathered supports the allegation or not. State the facts and cross-refer to statements/documentation supporting the allegation.

Section – Recommended Actions

In this section, consider whether the evidence gathered supports the need to hold a disciplinary hearing or if other action is required.

When considering if this is or is not a disciplinary issue, the Investigating Officer may consider the following:

- Is this the first time it has happened?
- What were the expectations?
- What were the risks/consequences?
- What is reasonable? Was this reasonable?
- What are the staff member's professional responsibilities?
- What were the mitigating circumstances?
- Was any remorse shown or apology given?
- What guarantees were there that this would not happen again?
- How would the staff member's actions be regarded by others?
- Had the staff member received support/training/guidance as appropriate?
- Underlying medical factors

Write down the recommendations and explain reasons for this recommendation, using answers to the above questions and evidence gathered.

Section – Sign Off

Sign the form and complete the appropriate dates for the investigation.

Suspension

Suspension is not a disciplinary sanction and carries no assumption of guilt. It is a means of protecting the interests of the staff member and the organisation whilst the investigation is taking place. A staff member should be suspended pending the disciplinary investigation and hearing when you consider that having them in the office/ward poses a significant, specific and legitimate risk to the organisation, to our property, to other staff, or to themselves, or where you have any reason to believe that they may interfere with the investigation in any way. It is also likely to be appropriate if the nature of the misconduct is such that there has been a serious breach the trust and confidence resulting in a breakdown of relations.

It is normally appropriate in cases of gross misconduct, but is unlikely to apply to more minor incidents.

The decision to suspend is a substantial step, never taken lightly, needs care to maintain confidentiality. Only suspend a staff member if you have authority to do so from a senior manager. If you are considering suspending a staff member, always get in touch with ConSultHR to discuss the case.

The process for suspension is as follows:

1. The manager who becomes aware of the misconduct should discuss the matter with their Senior Manager and ConSultHR.
2. The Senior Manager should consider whether suspension is appropriate, and consider any alternatives to suspension (i.e. moving the staff member, altering their working arrangements etc.)
3. Once a senior manager makes a decision to suspend, they can delegate authority to another appropriate manager.
4. The authorised manager should arrange a quiet room in which to meet the staff member and then inform them of the reason for the suspension and provide specific details of the concerns, including names if appropriate.
5. The manager should advise the staff member not to make any response to the allegations at this time but explain that a full investigation will take place during which they will be able to put their own views
6. The manager will organise collection of the organisation's property including ID badge and keys. Also inform IT security to suspend any remote access rights.
7. The manager will advise the staff member that they should not enter work premises unless as part of the investigation and tell them that the investigation manager will contact them as soon as possible.
8. Issue suspension letter **DIS2**, within seven days of the suspension, following review and agreement by the **HR Consultant (ConSultHR)**

If you decide that it is necessary to suspend a staff member, the period of suspension is on full pay and should be for as short a time as possible. Review the need for suspension on a regular basis to ensure that it is still appropriate in the emerging circumstances.

During this period, the staff member:

- Must not carry out any of duties, this includes working from home.
- Only contact another member of staff if the reason is to ask them to accompany them during formal proceedings.
- Will be required to maintain confidentiality, and not discuss the case with anyone unless authorised to do so.
- Is required to co-operate with any investigations.

Criminal Matters

Staff may occasionally commit acts of misconduct, which are against the law. Examples might be theft, assault, or fraud.

Whether these offences are committed in work time or outside of work, they need to be dealt with if they have an impact upon the staff member's on-going employment, or if they breach the bond of mutual trust and confidence between employer and employee.

In these circumstances, it is appropriate to follow the Disciplinary Procedure in the usual way and carry out a full internal investigation, regardless of the progress of any on-going police investigation. You should contact ConSultHR as soon as you become aware of the criminal act, and they will provide further advice and support with the case.

It may be necessary to liaise with the police throughout the investigation process, and provide the police with any witness statements or other evidence that you may gather. You are legally obliged to provide this evidence if requested.

It is not necessary to await the outcome of any criminal process or prosecution before convening a disciplinary hearing. As long as the procedure is fair and thorough, any subsequent sanction delivered on the balance of probability, will stand, regardless of the later outcome of the court case.

Managers should be aware of the likely public interest in such cases and the negative publicity that might result. You should therefore inform the communications function immediately if you think the organisation is in anyway at risk in terms of press interest in your case. Again, advice and support are available through ConSultHR.

Arranging the disciplinary meeting

The **Disciplining Manager** arranges the meeting and will:-

- Confirm that a confidential note taker will be available
- Book a suitable room, where privacy and confidentiality can be maintained
- Invite the staff member to the meeting, ensuring that they give them at least **7** days' notice, using letter **DIS8** and give them copies of the Management Statement of Case
- Inform witnesses of dates and times they will be required at hearing

The letter will include the details of the meeting (date, time, place, who will be present and in what capacity), and explain the right to be accompanied. It will include clear and specific details of what the allegations. It is important that the Management Statement of Case (Investigation Report) is provided in order to allow the staff member a fair and reasonable opportunity to prepare their case in advance. The staff member will be requested to send any written information in support of their case to the Investigating Manager and Disciplinary Manager in advance of the Hearing. They should also confirm whether they intend to call any witnesses.

If the allegation is of gross misconduct, the letter should confirm that, if proven, dismissal is a possible and likely outcome.

The staff member can request a postponement the meeting for up to five working days if they or their representative cannot attend on the date originally set.

The **disciplining manager** does not hear the case alone, and must arrange be accompanied by another appropriate manager and a ConsultHR representative. In cases of alleged gross misconduct, the **disciplining manager** must be a manager with authority to dismiss (e.g. Senior Manager or equivalent level)

The Disciplinary Hearing

The purpose of the meeting is to:

- Ensure the staff member understands the concerns or the allegations.
- Understand any reasons why the misconduct has occurred.
- To decide on what disciplinary action is appropriate and discuss this with the staff member.

The format of the meeting is as follows:

Stage 1: – Welcome

The **disciplining manager** will introduce all present by name and job title, and explain why they are there (e.g. in an advisory capacity, to take notes, to accompany staff member etc.).

Confirm the purpose of the meeting, as mentioned in their letter dated (date), is to discuss (reason for disciplinary action).

Confirm that the staff member has received their letter and is aware of their right to be accompanied. If they are happy not to be represented, ensure that this is noted.

If the meeting has previously been postponed because of illness, confirm staff member is fit and well enough to proceed with the meeting.

Explain who will take notes of the meeting (possibly a PA or secretary).

Explain the format the meeting will take.

Stage 2: Explain

- The **investigating officer** will firstly give clear and specific details of the alleged misconduct with dates/details as appropriate.
- The **investigating officer** will describe the nature of the evidence and how it was gathered. They will outline all evidence that has been gathered to support the allegation including any witness statements. They will call their witnesses, who may read their statements and answer any points of clarification.
- The **disciplining manager**, employee and their representative will have the right to question all witnesses and the investigating officer.
- The **investigating officer** may re-examine any witnesses. The witnesses should appear one at a time and should leave the room after they have given their evidence. Consideration should be given in advance by the investigating officer as to where witnesses will wait until they are called, so that they do not meet the staff member being disciplined. It is helpful to arrange a separate room where witnesses may wait. Witnesses should be briefed in advance of the meeting so that they understand what to expect. They should be reminded of the need to keep details of the hearing confidential.

Stage 3 Explore

- The **disciplining manager** should ask the staff member whether they are prepared to accept that they committed the act of misconduct. If the staff member is prepared to accept, find out the extent that they wish to admit to
- The **disciplining manager** will invite the staff member to comment on the allegation and evidence, and provide an explanation of the alleged misconduct, or their failure to improve or factors that need to be taken into account.
- The staff member may also call witnesses at this point. Both the **disciplining manager** and the **investigating officer** have the right to question the witnesses. The staff member can also re-examine the witnesses at this point.
- Both the **disciplining manager** and **investigating officer** will ask as many probing questions as they need to gain a full understanding of what happened and why.
- Allow the staff member or their representative the opportunity to ask questions.

Stage 4: Summary (before adjournment):

- The **investigating officer** will summarise the findings of their investigations and the staff member, or their representative, will also summarise their own response to the alleged misconduct.
- No new evidence shall be introduced at this stage.
- In the case of alleged gross or serious misconduct, the **disciplining manager** will ensure the staff member fully understands the serious view we take of such offences and give the staff member or their representative the opportunity to make any additional comments.
- The **disciplining manager** will let the staff member know there will be an adjournment, the reasons for this (e.g. to carry out further investigations, or to consider their responses and make a decision) and how long this is likely to be. If further investigation is required, this may take several days.

Stage 5: Adjournment (after the summary):

The **disciplining manager** should always adjourn the meeting for at least a short time to consider the responses made by the staff member and to make your decision on what action will be appropriate. Normally the meeting reconvenes the same day. They will also need to adjourn if the staff member presents new evidence before the summary. In this case it is likely that the adjournment will need to be for several days to allow further investigation and the **disciplining manager** should advise the staff member that the disciplinary meeting will be reconvened following this investigation, why this is necessary, and when this further meeting is likely to take place.

An adjournment may also be necessary:

- If the **disciplining manager** realises that the misconduct is either more or less serious than originally thought.
- If tempers become frayed.
- If anyone is upset or overly anxious.
- If a natural break is needed.

The staff member or their companion may also request an adjournment at any time during the meeting. During the adjournment, the **disciplining manager**, other manager and the ConSultHR will:

- Consider the facts and responses made by the staff member.
- Consider any mitigating circumstances.
- Carry out further investigations if required.
- Decide upon whether or not they genuinely have a reasonable belief the staff member has committed the alleged act(s) of misconduct, based on the evidence presented, and any action to be taken. (See following section.) Ensure the action is appropriate, taking into consideration:
 - How serious is the offence?
 - Were there any mitigating circumstances which would excuse the misconduct or justify a lesser penalty? (Some offences may be so serious that mitigating factors cannot excuse them).
 - Has there been previous disciplinary action, including informal action?
 - What impact did the misconduct have on other staff, or customers, and the organisation?
 - Was the staff member in a position to comply with the rules or procedure, e.g. had they been fully trained? Were they aware of the rules?
 - Consider the penalties, which have applied for similar offences in the past
 - If dismissal is a possible outcome, are there other options such as demotion, which would be appropriate to consider? The decision will depend on the seriousness of the misconduct and the mitigating circumstances.
 - **Remember – if in doubt – always take advice!**

Making a decision

To find against the staff member there must be a **reasonable belief** that they have committed the act(s) of misconduct in question, and this belief must be based on a thorough investigation.

Before coming to a decision, the Disciplinary Panel should check that:

- They have followed the disciplinary procedure.
- They have investigated all the evidence thoroughly, ensuring that it is robust and balanced.
- They have looked at all of the surrounding circumstances and taken into account any mitigating factors including any information offered by the staff member prior to or during the disciplinary meeting (e.g. personal issues, previous record, ill-health etc.).
- Their decision is reasonable, based fully on the objective evidence and that this evidence is sufficient to support that belief (e.g. belief must not be based on intuition).
- Their decision is completely impartial and has not been influenced in any way by personal knowledge of the staff member, or by any factors such as gender, race, age. or undue pressure from other managers etc.

- The disciplinary penalty is appropriate to the act of misconduct and is consistent with similar cases, whilst allowing for the individual circumstances. It is unlikely to be reasonable to dismiss a staff member for a first offence unless the offence is one of gross misconduct. They must be sure of the seriousness of the issue and whether it is classified as misconduct or gross misconduct.

An Overview of the Formal Disciplinary Sanctions

First Written Warning	A written warning is usually for less serious misconduct, where no current warning is on file. A first written warning is usually live for twelve months.
Final Written Warning	A final written warning would normally be given if there is: • an accumulation of minor offences • a failure to respond to a first written warning (i.e. required standards of improvement not met) • a repeat of an act of misconduct during the life of a first written warning • a more serious offence. This warning is usually live for twenty-four months.
Dismissal	Dismissal will occur if: • The staff member commits an act of gross misconduct • The required improvements have not been made following a final written warning • There has been a further act of misconduct during the life of a final written warning. Dismissal may be with notice or summary dismissal for gross misconduct. The Disciplining Manager must be a Senior Manager or equivalent (a manager with authority to dismiss)

Stage 6: Re-convene and close:

Ideally the meeting should be reconvened on the same day. However, this may not be possible in all cases, e.g. if new evidence is provided at the meeting. The Investigating Officer should be present at the reconvened meeting.

When the **disciplining manager**, reconvenes the meeting:

- Recap on what has already been discussed.
- Advise the staff member whether or not you believe that they have committed the alleged misconduct, and ensure that they understand the reasons for your decision.

If the Disciplinary Panel does not believe that they committed the alleged misconduct:

- Explain what evidence has been taken into account including any mitigating circumstances.
- Advise that they will receive a letter to confirm this.

If the Disciplinary Panel believes that they did commit the alleged misconduct, they should:

- Explain what evidence has been taken into account (including any mitigating circumstances).
- Explain what the disciplinary penalty will be and in the case of a written warning, how long this will remain on their records.
- Ensure that the staff member understands any standards of conduct they need to meet in the future and the details of any review period.
- Explain the right of appeal.
- Ensure the staff member understands the consequences of any future misconduct.
- Explain that the staff member will receive a letter confirming this.

If the decision is to terminate employment for gross misconduct, the panel will need to decide whether the dismissal will be summary dismissal or dismissal with notice. If summary dismissal is appropriate, they will need to advise staff member that they are summarily dismissed, and are not entitled to pay in lieu of notice. Confirm that arrangements will be made for salary and any accrued holiday entitlement up to and including today's date, to be paid as soon as possible.

Follow up actions

The **disciplining manager** will need to write to the staff member within **7** days of the hearing to confirm the outcome of the disciplinary hearing, as follows:

- First or final written warning – **letter DIS9**.
- Confirmation that action is not appropriate – **letter DIS10**.
- Dismissal with notice or pay in lieu, or summary dismissal – **letter DIS11**.
- Other sanction, e.g. demotion or transfer – **DIS13**.

The **disciplining manager** should also report all disciplinary information, and notice of suspensions promptly, using the reporting form (**attached within the appendices after letter DIS18**) to **ConSultHR** .

If you are terminating employment, ensure that you follow the **Ending Employment procedure** on via ConSultHR. You will also need to arrange for the return of any company property if this has not already been done.

Disciplinary case files

It is important to ensure that every part of the process you have undertaken is fully documented, and that all the papers are scanned and uploaded onto the ConSultHR system with hard copies placed on the employee's personal file.

It is important that the file should be correctly prepared and easy to follow. It should contain the following sections, each of which should be in chronological order, with the most recent information at the front:

Section	Contents
1.	Summary of events and copies of any checklists you have used.
2.	Copy of all correspondence with staff member including • Invitation to meeting. • Confirmation of their attendance. • Letter confirming outcome of the meeting.
3	Written records of all meetings.
4.	Suspension letter and authority to suspend if applicable.
5.	Evidence obtained, e.g. compliance reports, or customer complaints, and signed statements from witnesses.
6.	Background information such as previous live case history and any mitigating circumstances.

The Appeal Process

Refer to the separate appeals guidance.

Resignation during disciplinary proceedings

If a staff member wants to resign during the disciplinary process, or immediately afterwards, contact **ConSultHR** for guidance. If the resignation is tendered letter **DIS14** should be used following discussion with ConSultHR. It is very likely that the disciplinary hearing will go ahead even if the employee chooses not to attend.

Appendix 1 – Checklist for a formal disciplinary procedure

Before Meeting:

Step	Situation	Action	Letter	Date
1.	Incident occurs or information becomes available which indicates that misconduct may have occurred.	Investigating Officer investigates allegations and decides whether disciplinary hearing is appropriate. The IO will need to: - Collect and analyse statements from any witnesses, or other evidence. - Examine personnel file to check if any previous occurrences (i.e. unexpired warnings) - Consider any possible mitigating circumstances that might be put forward. - To proceed they must have a reasonable belief that the staff member may have committed the misconduct – i.e. it appears more likely than not that he/she did so, and have reasonable grounds to support that belief at this stage.		
2.	Unless allegations clearly unfounded	Recommend hearing and confirm that <u>Disciplining</u> Manager, another manager, ConSULTHR representative and note taker are available.		
3.	Attendees confirmed	Investigating Officer prepares all relevant documentation, which they will rely on at the meeting. Prepares script for hearing Disciplining Manager advises date of meeting to staff member, giving at least 7 days' notice, and encloses copies of all relevant documentation with letter. Go to step 4/5/6 as appropriate.	DIS4	
4.	Staff member postpones meeting	The staff member may postpone the meeting for up to five working days in order to allow their TU rep/companion to attend. Rearrange meeting and re-advise date. Go to step 6.		
5.	Staff member refuses to attend	Investigate why the staff member is refusing to attend. If there is no reasonable explanation, ensure that they understand that the meeting will proceed in their absence. If the staff member cannot attend due to illness, meeting should be rearranged for an appropriate date. If illness is likely to be long term, consult ConSultHR for advice.		
6.	Once meeting date agreed	Disciplining Manager holds meeting, taking full notes and verbally advises action to be taken.		

After Meeting:

Step	Situation	Action	Letter	Date
7.	Meeting has been held	Decision made to take one of following actions: • 1st Written warning agreed as appropriate action – go to step 8. • Final Written warning agreed as appropriate action – go to step 9. • Other action to be taken – go to step 10. • No action necessary - go to step 11. • Dismiss employee – go to step 12.		
8.	If first written warning agreed as appropriate action	Issue first written warning specifying period for monitoring (twelve months). Ensure copy of warning is included on personnel file. Go to step 14.	DIS9	
9.	If final written warning agreed as appropriate	Issue final written warning, including time-scale for monitoring (twenty four months). Ensure copy of warning is included on personnel file. Go to step 14.	DIS9	
10.	If other action agreed	Issue letter advising of action (such as demotion). For next steps seek advice from ConSultHR.	DIS13	
11.	If no action appropriate.	Issue letter to staff member to confirm that procedure is finished and no further action will be taken.	DIS12	
12.	If dismissal appropriate	Issue letter of dismissal or summary dismissal (for gross misconduct). Go to step 14.	DIS11	
13.	If appeal received.	See appeals procedure.		
14.	If no appeal or unsuccessful appeal.	Where a first or final written warning has been issued monitor for agreed period and ensure the disciplinary and capability reporting form is completed and sent to ConSultHR. At end of period, go to step 15. In case of a dismissal, ensure all copies of correspondence, the script of the meeting, notes made and copy of completed checklist are sent to ConSultHR for filing on the staff member's personnel file. No further action necessary.	DIS19 (reporting form to ConSultHR)	
15	Has misconduct recurred within the period of the warning?	NO: Advise staff member that the procedure has finished and warning has expired. Ensure all copies of correspondence, the script of the meeting, any notes and copy of completed checklist are sent for filing to ConSultHR where they will be held on the employee's personnel file. The expired warning and correspondence will be held in a section of the employee's file, which has limited access to ensure compliance with the data protection principles. No further action necessary.	DIS12	
		YES: disciplinary procedure will re-start at next stage. Start a new checklist.		

Appendix 2– summary of letters

Letter	Name	When to use
DIS1	Confirmation of outcome of informal meeting	Following an informal meeting to confirm actions/outcome
DIS2	Letter of Confirmation of Suspension	When suspending employee suspected of gross misconduct
DIS3	Notify Investigating Officer Appointed	To confirm the name of the Investigating Officer appointed
DIS4	Invite to Investigatory Interview	Confirm date of investigatory interview
DIS5	Letter to Witness	Issue following interview with witness
DIS6	Confirmation of Outcome of Investigatory Interview – No Case to Answer	Issue following the investigatory interview
DIS7	Confirmation of Outcome of Investigatory Interview – Counselling	Issue following the investigatory interview
DIS8	Invite to formal disciplinary meeting	Use at stages 1, 2 and 3
DIS9	Formal Disciplinary Outcome - Written warning.	First or final written warning.
DIS10	Formal Disciplinary Outcome – No Case to Answer	No case to answer following the disciplinary hearing
DIS11	Formal Disciplinary Outcome - Dismissal	Dismissal for Misconduct
DIS12	Confirmation of standards following review	Following review period, to confirm no further action appropriate.
DIS13	Offer of demotion or transfer.	To confirm demotion or transfer.
DIS14	Acceptance of resignation	When employee resigns during disciplinary procedure.
DIS15	Investigation Report Template	For Investigating Officers

DIS1 – Record of Informal Stage

Department address

.XXXXX

E-mail: XXXXXXXX@abc.xyz.uk

PRIVATE AND CONFIDENTIAL

Employee's address

Date

Dear

Further to our meeting of **(date)**, as agreed I've captured the main points of our discussion in writing, and attach a copy for your information.

As we discussed, with immediate effect you have agreed to address and ensure that there is no repetition of the following: - **(Detail the incidents and examples of unacceptable behaviour).**

We agreed the following: **(Give details)**

As we discussed, failure to meet these standards and, or a recurrence of **(details of misconduct)** can result in formal action under the disciplinary policy.

Please let me know if you require clarification of any of the points covered in this letter. Please sign the enclosed copy of this letter, and the attached meeting notes, and return them to me as confirmation of receipt and understanding of the contents.

Yours sincerely

Line Manager

cc: *ConSultHR*

Signed:.....

Date:.....

NOTES – Please delete before sending:

Send letter with two copies of the meeting notes, and a second copy of the letter for signing and returning.

DIS2 – Letter of Confirmation of Suspension

Department address

.XXXXX

E-mail: XXXXXXXX@abc.xyz.uk

Send Recorded Delivery

PRIVATE AND CONFIDENTIAL

Employee's home address

Date

Dear

I write to confirm that on *(insert date)* I suspended you/authorised XXXX to suspend you with immediate effect, from duty pending a full investigation into the allegation that you

-
-

*(*The allegation(s) constitute an action of gross misconduct and if upheld, you should be aware that a possible outcome may be dismissal.)*

During your suspension, you will continue to receive full pay in accordance with the terms of the Disciplinary Policy & Procedure (copy attached). Suspension does not constitute disciplinary action and certainly does not carry any assumption of guilt. However, I consider it necessary to enable full fact-finding to take place and it is appropriate to the circumstances.

We will appoint an Investigating Officer shortly, who will contact you as soon as possible to arrange an investigatory meeting. I expect you to fully cooperate with any investigations and be available to attend meetings.

During suspension, I confirm that I / XXXX instructed you not to enter our premises or to contact your colleagues. However, you are expected to attend the investigatory interview. I also confirm that I took from you your keys and ID badge.

If you wish to meet with your Trade Union representative or workplace colleague on site during your suspension please let me know and I will make suitable arrangements.

I appreciate that suspension from duty may cause anxiety or distress. If this is the case, you may wish to contact staff support via - **(add current contact details).**

Yours sincerely

Enc:

Copy of Disciplinary Policy and User Guide

cc: ConSulthR

NOTE - *delete if not appropriate

DIS3 – Notify Investigating Officer Appointed

Department address

.XXXXX

E-mail: XXXXXXXX@abc.xyz.uk

Send Recorded Delivery

PRIVATE AND CONFIDENTIAL

Employee's home address

Date

Dear

I have been advised of the following allegation

-
-

As a result I have appointed (name of Investigating Officer) to conduct an investigation under the Disciplinary Procedure (copy enclosed if not provided i.e. because the employee is suspended).

(Name of Investigating Officer) will contact you shortly to arrange a meeting and send you further specific information about this allegation.

Being subject to an investigation can be very distressing. To support you through this process, I suggest that you contact either your Trade Union Representative or a workplace colleague. You may wish to contact staff support via - (add current contact details).

Yours sincerely

Enc: Copy of Disciplinary Policy and user Guide

cc: Investigating Officer and ConSult HR

DIS4 – Invite to Investigatory Interview

Department address

.XXXXX

E-mail: XXXXXXXX@abc.xyz.uk

Send Recorded Delivery

PRIVATE AND CONFIDENTIAL

Employee's home address

Date

Further to XXXXX letter of date I confirm I have been appointed to investigate the allegations that:

(state allegation)

You are required to attend an Investigatory Interview, to be held

On: Date

At: XXXXX

Venue: XXXXXXXX

I will conduct this investigation under the terms of the organisation's Disciplinary Policy and XXXXX, will accompany me as a note taker.

I will endeavour to undertake a full investigation as quickly as possible and keep you informed of my progress. (if the employee is suspended add the following - In cases of suspension, the policy requires the disciplining officer to provide weekly updates to you weekly and we can agree the time and method of this when we meet.)

Please confirm your attendance by contacting me on (tel no) by (date). Please note you have no statutory right to be accompanied at a formal investigatory meeting.

If following this investigation, you receive an invitation to a disciplinary hearing you will have the right to be accompanied by a Trade Union representative or a workplace colleague.

Yours sincerely

Your name & title

Enc CC: Disciplining Manager and ConSultHR

DIS5– Letter to Witness

Department address

.XXXXX

E-mail: XXXXXXXX@abc.xyz.uk

PRIVATE AND CONFIDENTIAL

(Insert witness name and address or department address)

Date

Dear XXXXX

Thank you for your assistance with the investigation regarding XXXXXX. Your input has been very helpful.

I enclose two copies of your statement for you to review the contents, make any amendments if necessary and return one copy to me, signed and dated. Please keep the second copy for your reference.

I will shortly finalise the investigation report and make recommendations on what further action to be taken. If the case is referred to a disciplinary hearing, it may be necessary to ask you to attend as a witness. This will however, only be requested if absolutely necessary and I will contact you regarding arrangements.

In the meantime, if you have any further queries, please do not hesitate to come and see me.

Yours sincerely

Your name and address

CC ConSultHR

Enc – Statements for signing

DIS6– Confirmation of Outcome of Investigatory Interview – No Case to Answer

Department address

.XXXXX

E-mail: XXXXXXXX@abc.xyz.uk

PRIVATE AND CONFIDENTIAL

(Insert employee home address)

Date

Dear XXXXX

Thank you for attending the Investigatory Interview meeting on XXXX.

As a result of this meeting, we will not ask you to attend a Disciplinary Hearing.

I appreciate that this may have been a distressing time for you and I thank you for your co-operation during the investigation.

Optional Paragraph for employees who were suspended

Your suspension has now been lifted, and you are expected to return to work with effect from

I would like to meet with you on xxxx at xxxxx in xxxx so that I may debrief you on the findings of the investigation so that you are clear as to why we have reached this outcome. We can also use this meeting to discuss any help you require to return to the workplace.

I look forward to meeting with you.

Yours sincerely

Line Manager

CC ConSultHR

DIS7– Confirmation of Outcome of Investigatory Interview – Counselling

Department address

.XXXXX

E-mail: XXXXXXXX@abc.xyz.uk

PRIVATE AND CONFIDENTIAL

(Insert employee home address)

Date

Dear XXXXX

Thank you for attending the Investigatory Interview meeting on XXXX in the presence of (list names and designations).

At this meeting, an allegation was investigated that

During this meeting, you stated that (insert mitigating circumstances).

As a result, I concluded that you should receive counselling concerning (insert areas needed for counselling). Please meet on xxxx at xxxxx in xxxx so that we may begin the counselling process.

In this instance, both the Investigating Officer and I are satisfied that you have learned from the incident and that it will not occur again. However, I must inform you that if a similar incident happens again, it could lead to further investigation where disciplinary action may be taken against you

Please contact me if you need any further advice or support.

Yours sincerely

Your name and address

CC ConSultHR

DIS8– Invite to Formal Disciplinary Hearing

Department address

.XXXXX

E-mail: XXXXXXXX@abc.xyz.uk

PRIVATE AND CONFIDENTIAL

(Insert employee home address)

Date

Dear XXXXX

Further to your attendance at an investigatory interview on (insert date) I wish to inform you that investigating officer's name has referred the case to a disciplinary hearing, which will consider the allegation that XXXXXXXX

I will conduct the Disciplinary Hearing accompanied by XXXXXXXX (job title) and XXXXXXXX (ConSultHR representative), scheduled to be held:-

On: (insert date)

At: (insert time)

Venue: (where held)

Please confirm your attendance via XXXXX

This hearing will be conducted under the Disciplinary Policy, a copy of which has already been provided to you. At the hearing, investigating officer's name will be presenting the management case and will be calling XXXXX as witnesses. Please let me know if you intend to call any other witnesses who are not stated here.

I enclose a copy of the management statement of case, together with accompanying statements. If you intend to present any papers or evidence at the Hearing, you should send them to me by XXXXX at Address so that the panel has sufficient time to read your submissions.

You are entitled to be accompanied to this meeting by a trade union representative or workplace colleague.

Please be aware that after considering all the information available to me at the Disciplinary Hearing I may decide to issue you with a sanction up to a final written warning or dismissal.

Yours sincerely

Disciplining Manager

Copy of the management statement of case with appendices.

DIS9– Formal Disciplinary Hearing Outcome – Written Warning

Department address

. XXXXX

E-mail: XXXXXXXX@abc.xyz.uk

PRIVATE AND CONFIDENTIAL

(Insert employee home address)

Date

Dear XXXXX

RE: Disciplinary Hearing held on (insert date, time and venue).

Present: (Disciplining Manager)
..... (Supporting Manager)
..... (ConSultHR representative)
..... (Investigating Officer)
..... (Employee)
..... (TU Rep/colleague)

Witnesses Called

Further to our meeting (above), I considered the allegation that (insert allegation).

Having listened carefully to the evidence presented to me, I summarised that (insert what you concluded based on the balance of probabilities given the evidence provided).

I considered (insert mitigating circumstances or what the employee/TU/colleague asked to be taken into consideration if the employee admitted the allegation).

As a result of the above, my decision is to issue a ***first/final written warning** in accordance with the Disciplinary Policy. A copy of this letter will be placed on your personal file and the warning will remain valid for (x) months and is effective from the date of this letter.

You have the right to appeal against my decision. If this is the case, this should be put in writing, stating the basis of your appeal, within 14 calendar days from the receipt of this letter. It should be addressed to xxxx..

The standards expected and timescales that we agreed are as follows (Give Details).

May I remind you that should the same or a similar incident happen again during this period, further disciplinary action may be taken against you. (If a final written warning was issued add) This may lead to your dismissal.

Yours sincerely

Disciplining Manager

Copy to ConSultHR

DIS10– Formal Disciplinary Hearing Outcome – No Case to Answer

Department address

. XXXXX

E-mail: XXXXXXXX@abc.xyz.uk

PRIVATE AND CONFIDENTIAL

(Insert employee home address)

Date

Dear XXXXX

Further to our meeting on (**date**), which was held under the Disciplinary Policy, I confirm that following a thorough review of the circumstances, we accept the explanation which you gave and we now consider that this matter is closed. We are grateful for your full co-operation in this matter.

A copy of this letter is now on your personal file as evidence of this.

We accept that this may have been a stressful time for you and we will endeavour to make sure that this process will have no effect on your on-going employment. Please contact me if you have any concerns that you wish to discuss.

Yours sincerely

Disciplining Manager

Copy ConSultHR

DIS11– Formal Disciplinary Hearing Outcome – Dismissal

Department address

. XXXXX

E-mail: XXXXXXXX@abc.xyz.uk

PRIVATE AND CONFIDENTIAL

(Insert employee home address)

Date

Dear XXXXX

RE: Disciplinary Hearing held on (insert date, time and venue).

Present: (Disciplining Manager)
 (Supporting Manager)
 (ConSultHR representative)
 (Investigating Officer)
 (Employee)
 (TU Rep/colleague)

Witnesses Called

Further to our meeting (above), held under the Disciplinary Policy, I considered the allegation that (insert allegation).

I confirm my decision that, after hearing all the evidence and having considered your representations my conclusions are these: **(State your conclusions)**

The facts that contributed to my conclusions are as follows:-

(Identify the key facts that contributed to your decision making about the offence)

This is regarded as **misconduct / gross misconduct**. I have considered the mitigating factors you have raised **(give brief details)**.

If Dismissal

[As a result you are dismissed with **(...weeks)** salary in lieu of notice. Your effective date of dismissal will be the date of this letter.]

OR

If Summary Dismissal

[As a result you are summarily dismissed with immediate effect. (Your effective date of dismissal is XXXXXX)]

The reasons for your dismissal, as discussed at the above interview, are as follows:

(give details of reasons for dismissal. Please ensure the reasons tie in with the standards set at Stage 2 meeting).

If you have not already done so, before leaving, you are required to return your keys, ID badge, and any of the organisation's property in your possession to me.

If you have any personal belongings, which you need to collect from your work place, please contact xxxx and arrange a mutually convenient time to do this.

Finally, I would remind you that you have the right to appeal against this decision. If you decide to appeal you should do so in writing, using the enclosed form the basis of your appeal, within 14 calendar days from the receipt of this letter. Send your completed form to **NAME** the ConSultHR representative who will pass it onto the manager designated to hear your appeal.

As you will see in the Appeals Policy, you may appeal on the following grounds:-

- Been treated wrongly – the correct processes as detailed in the Disciplinary Policy have not been used
- Been treated unfairly – you have evidence that you have been treated unfairly and the decision was not made objectively based on the information presented to the hearing or you believe that information that should have been made available to the hearing was not presented and/or not considered or the decision was made in a discriminatory manner
- Been treated unreasonably – you believe the decision is too severe based on all of the information available or the outcome did not logically flow from the information available.

Please note that disliking the decision is not sufficient grounds for appeal.

I attach a copy of the minutes of this meeting for your records, which you may retain. .

Yours sincerely

Disciplining Manager

Copy to ConSultHR

Enclose Meeting notes, Appeal form and Appeals Policy is the employee is dismissed

DIS12– Confirmation of Standards Attained

Department address

. XXXXX

E-mail: XXXXXXXX@abc.xyz.uk

PRIVATE AND CONFIDENTIAL

(Insert employee home address)

Date

Dear XXXXX

Further to your review meeting with me on (date), in line with the Disciplinary Policy, I am pleased to confirm that you have achieved the agreed standards.

Please note however, that the Written/ Final Written warning will remain live for (.....months).

I must remind you that if your current improved standards are not maintained and, or there is any recurrence of (give details), further action may be taken against you under the Disciplinary Policy.

Yours sincerely

Manager

CC ConSultHR

DIS13– Offer of Demotion/Transfer

Department address

. XXXXX

E-mail: XXXXXXXX@abc.xyz.uk

PRIVATE AND CONFIDENTIAL

(Insert employee home address)

Date

Dear XXXXX

Further to our meeting on (Date) under the Disciplinary Policy, I confirm my decision that, after hearing all the evidence and having considered your representations my conclusions are these: (State your conclusions)

The facts that contributed to my conclusions are as follows:- (Identify the key facts that contributed to your decision making about the offence). I regarded this as misconduct that would usually result in dismissal. (if it is gross misconduct this is not an appropriate way forward and the outcome should be dismissal)

However, I have considered the mitigating factors you have raised and I am prepared to allow you to transfer to a different job that will allow you to demonstrate acceptable behaviours and regain our trust.

As a result I offered you the option to move to the vacant post of (give new job title and Band) which you decided to accept at the salary of (£xxxx). For the sake of clarity I can confirm that you will move to this rate of pay as from DATE and Pay protection will not apply.

OR

During the meeting you requested a transfer to the post of (give job title, Band and salary). For the sake of clarity I can confirm that you will move to this rate of pay as from DATE and Pay protection will not apply.

Your new terms and conditions of employment will follow shortly. Please return a signed copy of these to ConSultHR as soon as possible.

Meanwhile, I need you to understand that this arrangement also serves as a final written warning and failure to meet and maintain the required standards of conduct in your new post will probably result in dismissal. Please sign and return the second copy of this letter to me as confirmation that you have received and understood the contents.

Yours sincerely

Disciplining Manager

Cc ConSultHR

DIS14– Acceptance of Resignation

Department address

. XXXXX

E-mail: XXXXXXXX@abc.xyz.uk

PRIVATE AND CONFIDENTIAL

(Insert employee home address)

Date

Dear XXXXX

Resignation whilst subject to disciplinary action

Thank you for your letter of (date), in which you advised us of your resignation from your job.

In line with your contract of employment you are required to provide xx weeks' notice and counting from the date on your resignation letter this puts your leaving date of DATE.

We will endeavour to complete the investigation/disciplinary process during this time and will send you details of next steps as soon as possible.

OR

As the planned disciplinary hearing is within this timescale, we expect you to attend. Please note that if you chose not to do so we will still hold the hearing in your absence and form a decision based on the information available. In the event that a disciplinary sanction is applied, you will of course have opportunity to appeal.

Yours sincerely

Manager

cc: ConSultHR

DISCIPLINARY REPORTING FORM

Please complete this form in full if you intend to take someone through the formal Disciplinary process or has been suspended from duty.

Name of Employee:	Staff No:	Dept:	Grade:
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This report is made in respect of the above individual: (please complete one form per person)

Suspended *Date*

Started Disciplinary process on *Date*

Brief details of reason(s) for suspension/starting disciplinary process

Please complete for disciplinary cases the details of the sanction applied:

Warning:	Date of warning:	Review date:	Expiry date:	Appeal?:
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Manager responsible for meeting:	Date of meeting:
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I certify that the above information is correct.

Signature of manager:	Date:
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FOR HR USE ONLY

Initial notification Rec'd:	Update:	Input to System:	Date:	Initials:
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Original form with supporting documentation, including letters, interview notes, investigation reports, and other data used, to be posted/mailed to ConsultHR

DIS 15 Investigation report template

Investigation Report Strictly private & confidential		
Disciplining Officer		
Investigating Officer		
Employee being investigated	Name	
	Band/ Job title	
	Current line manager	
Background	Brief details about the member of staff and their team – how long have they been in post, what they do, number of staff, etc.	Attach job description

Investigation	Who was on the investigation team?	
	Who was interviewed?	
	Was any information not available? Why?	If n/a, please delete this row
	Statements and evidenced obtained	Please attach as appendices 1 , 2, 3 etc.
Allegation(s) & evidence	Set out the allegations made and summarise the evidence for/ against each one - separate the detail and extend this list if needed.	Attach copies of any paperwork as annexes
Allegation 1	Evidence to support allegation 1	
	Defence against allegation 1	
	Any special/ mitigating issues	

Allegation 2	Evidence to support allegation 2	
	Defence against allegation 2	
	Any special/ mitigating issues	
Report summary/ conclusion	Look at each allegation individually, does the bulk of the evidence support/ not support it? Why?	
	Allegation 1	
	Allegation 2	
	Should the staff member have known what was expected/ required? How?	
Recommended actions	Look at each allegation separately, is there enough evidence to test it at a disciplinary hearing? Is there any other action you feel is necessary?	
	Allegation 1	
	Allegation 2	
Investigator sign-off	Name	
	Signed	
Dates	Date investigation report opened	
	Date investigation report closed	